

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff(s),

CASE NUMBER: 02-80631

HONORABLE VICTORIA A. ROBERTS

v.

VINCENT EARL THOMPSON,

Defendant(s).

_____ /

ORDER GRANTING DEFENDANT'S
MOTION TO OBTAIN ATTORNEY VISITATION RECORDS

On October 3, 2008, the Court granted Defendant Vincent Earl Thompson's ("Thompson") requests for appointed counsel and an evidentiary hearing on his 28 U.S.C. §2255 motion. The hearing is scheduled for March 4, 2009 and will focus on whether Thompson's trial counsel was ineffective because he failed to convey a plea offer to Thompson. The Government says Thompson's trial counsel presented the plea offer to Thompson at the Wayne County Jail.

On October 6, 2008, John Minock entered an appearance on behalf of Thompson. To prepare for the evidentiary hearing, Minock issued subpoenas to the Wayne County Jail and the Federal Detention Center in Milan for attorney visitation records.

Before the Court is the Government's "Motion to Prohibit Unauthorized Discovery." (Doc. #142). The Government says Rule 6 prohibits discovery in §2255 matters unless the party seeking discovery obtains permission from the Court. Because defense counsel neither filed a motion for leave to conduct discovery nor received

permission from the Court to do so, the Government asks the Court to prohibit him from requesting or receiving attorney visitation records.

Defense counsel concedes that he erred in issuing the subpoenas without seeking the Court's permission. On February 12, 2009, defense counsel filed a "Motion to Allow Discovery." (Doc. #144).

Rule 6(a) and (b) of the Rules Governing Section 2255 Proceedings say:

A judge may, for good cause, authorize a party to conduct discovery under the Federal Rules of Criminal Procedure or Civil Procedure, or in accordance with the practices and principles of law.

A party requesting discovery must provide reasons for the request.

Defense counsel says he needs the requested attorney visitation records to determine whether Thompson's trial counsel met with him in the relevant time frame.

After reviewing defense counsel's motion, the Court finds good cause exists to issue subpoenas for attorney visitation records.

Defense counsel's motion is **GRANTED**. (Doc. #144). The Government's Motion to Prohibit Unauthorized Discovery (Doc. #142) is **DENIED**.

IT IS ORDERED.

s/Victoria A. Roberts

Victoria A. Roberts
United States District Judge

Dated: February 17, 2009

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on February 17, 2009.

s/Linda Vertriest

Deputy Clerk